

Climate Gentrification: An Imminent Threat to Oceanfront Cities

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CLIMATE GENTRIFICATION: AN IMMINENT THREAT TO OCEANFRONT CITIES

By Marcel Apple*

I. OVERVIEW

Traditionally, gentrification occurs when real estate prices appreciate, leading to significant cultural change in low-income communities and involuntary displacement of low-income residents.¹ In recent years, Miami, Florida is beginning to feel the impacts of “climate gentrification.”² High-income buyers, who historically develop property close to the ocean, are affected by rising sea levels and increasingly look inland to develop areas on higher ground.³ The influx of real estate investments in these is expected to lead to spiking home prices and property taxes, forcing many longtime community members to abandon their homes.⁴

Homeowners in these communities already report approaches from developers offering buyouts and relocation as renters are experiencing dramatic increases in rent.⁵ While the thought of relocating may be appealing to some, due to home prices increasing up to 1,121% , these trends have decreased the overall amount of affordable housing left in the city.⁶ As a result, victims of climate gentrification are increasingly forced to leave Miami due to the lack of affordable housing.⁷ This article will outline various precautionary initiatives, policy implications, and litigation avenues that should arise as a means to protect these vulnerable communities.

II. MIAMI’S MUNICIPAL INITIATIVES TO ADDRESS CLIMATE GENTRIFICATION ARE A GOOD START

In 2017, the City of Miami and Miami Beach passed a \$400 million bond measure, half of which will fund flood mitigation projects and other measures to adapt to sea-level rise.⁸ Subsequently, in 2018, Miami became the first city in the country to pass a climate gentrification resolution.⁹ As part of this resolution, the city is studying how low-income communities on higher ground are affected by climate gentrification driven by sea-level rise.¹⁰ Furthermore, the resolution focuses on how the city can stabilize property tax rates in these areas, with hopes of keeping affected individuals in their homes.¹¹

Legal scholars and climate change experts nationwide have praised this unprecedented initiative, acknowledging the city’s proactive approach in identifying and protecting a population that is already considered vulnerable for other, non-climate related reasons.¹² The city’s initiatives are a refreshing approach, considering the United States’ history of abusing the power of eminent domain to transform ‘blighted’ areas.¹³

III. PREVENTATIVE POLICIES AND LEGISLATION ARE NEEDED

While Miami’s climate gentrification resolution is an important first step, oceanfront cities like Miami will need to implement policies and legislation to protect vulnerable low-income communities from displacement. So far, Miami has passed legislation that mandates a greater workforce housing allowance—housing that is specifically allotted for middle-income families in Overtown, an inner-city neighborhood of Miami that is feeling the pressure of climate gentrification.¹⁴ Additionally, developers have suggested zoning changes that would allow slightly larger buildings that make room for more residents but still fit with the character of the community.¹⁵

Another proposed solution is a property tax freeze for the residents of areas feeling targeted pressure to sell.¹⁶ Cities like Boston and Philadelphia have implemented this approach to prevent displacement, “promote neighborhood stability, preserve character, and provide a dividend of sorts to those who have stayed through years of high crime, population loss, and declining property values.”¹⁷ However, under this approach, property taxes accrue and homeowners owe them in a lump sum when and if they sell. Furthermore, tax freezes would be irrelevant for renters, who are nearly twice as likely to be displaced by gentrification.¹⁸

Lawmakers have also suggested the use of community land trusts (CLTs).¹⁹ Under this approach, a nonprofit buys a piece of land in an at-risk neighborhood and builds multiple houses to be leased to low-income residents.²⁰ This tactic intends to insulate communities from development pressure and create an island of affordability. Recent empirical studies have proven that CLTs in at-risk neighborhoods (1) significantly decrease the likelihood of gentrification, (2) stabilize income levels, (3) mediate the decrease of affordability, and (4) retain rental units.²¹

IV. LEGAL IMPLICATIONS

Climate gentrification’s origins distinguish it from traditional, development-based gentrification. Experts have traced the source of traditional gentrification to the disproportionate movement of educated millennials to inner city neighborhoods in large municipalities.²² This movement triggers redevelopment and leads to the displacement of the neighborhood’s low-income residents.²³ As seen most recently in Washington, D.C., anti-gentrification lawsuits often attack discriminatory policies or zoning practices.²⁴

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However, lawsuits seeking to protect classes of people threatened by climate gentrification could look more like the case of *Juliana v. United States*.²⁵ In that case, a group of twenty-one young people sued the federal government alleging a violation of their right to a safe climate on due process and equal protection grounds.²⁶ In their complaint, the plaintiffs accused the government of permitting, authorizing, and subsidizing fossil fuel use “despite long being aware of its risk, thereby causing various climate-change related injuries to the plaintiffs” leading to psychological harm, impairment to recreational interests, exacerbated medical conditions, and damage to property.²⁷ Despite acknowledging an undisputed need to protect the environment on behalf of the younger generation, the court reluctantly found itself powerless to grant the plaintiffs’ request for a government plan that would phase out fossil fuel and pull greenhouse gasses out of the air.²⁸ Instead, the court held that the plaintiff’s claims are more properly suited for the political branches or the electorate at large.²⁹

If an individual were to mount a claim in hopes of impeding the advancing threat of climate gentrification, the allegations would likely be similar to those made in *Juliana*. Notwithstanding a negative outcome for the plaintiffs in *Juliana*,

the court held the alleged injuries were “sufficiently concrete and particularized” to allow standing.³⁰ In a hypothetical climate gentrification case filed on similar grounds, a court would likely come to the same conclusion: displacement and moving costs are concrete injuries rather than simply “conjectural,” which would give the claimant standing.³¹ However, a court would likely defer to the political branch as the proper venue to seek relief, leaving potential plaintiffs without legal relief.

V. CONCLUSION

As climate gentrification threatens to displace residents of lower income areas in some oceanfront cities, it seems that it will fall on local governments and legislatures to protect those vulnerable communities. Cities will need to follow Miami’s lead by funding studies, identifying threatened communities, and implementing legislation and policies such as tax freezes and CLTs. The holding in *Juliana* illustrates the Ninth Circuit’s unwillingness to remediate a legitimate injury directly linked to climate change. However, given the federal government has not prioritized the environment, it will be interesting to see if other federal courts take a stand under similar circumstances.³² 

ENDNOTES

¹ See NAT’L ASS’N FOR LATINO Cmty. Asset Builders, NALCAB’s GUIDE TO EQUITABLE NEIGHBORHOOD DEVELOPMENT 5–6 (Apr. 23, 2018), http://nalcab.org/wp-content/uploads/2018/02/NALCAB_GuideToEquitableNeighborhoodDevelopment_Final.pdf (defining gentrification as “a type of neighborhood change in which real estate price appreciation leads to involuntary displacement and significant cultural change.”).

² See Aparna Nathan, *Climate is the Newest Gentrifying Force, and its Effects are Already Re-Shaping Cities*, SCI. NEWS (July 15, 2019), <http://sitn.hms.harvard.edu/flash/2019/climate-newest-gentrifying-force-effects-already-re-shaping-cities/> (detailing how Miami is one of the first cities to confront climate gentrification).

³ See *id.* (detailing how the lower risk of weather damage in inland areas is making traditionally low-income neighborhoods more attractive to high-income buyers, who normally prefer beachfront property, particularly in Miami).

⁴ See *id.* (discussing how the increasing interest high-income buyers have in traditionally low-income neighborhoods in Miami has driven up home prices and threatens, in tandem with climate change itself, to result in higher taxes).

⁵ See Jeremy Deaton, *Climate Gentrification is Creating an Affordable Housing Crisis in Miami*, CLEANTECHNICA (Sept. 7, 2018), <https://cleantechnica.com/2018/09/07/climate-gentrification-is-creating-an-affordable-housing-crisis-in-miami/> (describing how developers are targeting homeowners who are struggling financially while landlords ratchet up the cost of housing for their tenants).

⁶ See Alex Harris, *Climate gentrification: Is sea rise turning Miami high ground into a hot commodity?*, MIAMI HERALD (last updated Dec. 19, 2018, 11:54 AM), <https://www.miamiherald.com/news/local/environment/article222547640.html> (explaining how on-going and past gentrification in Miami have left very few areas with affordable housing).

⁷ See *id.* (detailing how the residents of gentrifying neighborhoods in Miami have few affordable housing options left in the city).

⁸ See Adam Aton, *Climate funding passes; vulnerable cities get new mayors*, CLIMATEWIRE (Nov. 8, 2017), <https://www.eenews.net/climatewire/2017/11/08/stories/1060065971> (discussing how the outgoing mayors of Miami and Miami Beach, both of whom proposed projects to mitigate the effects of climate change, were succeeded by mayors who promised to continue working on those projects).

⁹ See Ines Kagubare, *Miami passes first-ever climate gentrification resolution*, CLIMATEWIRE (Dec. 5, 2018), <https://www.eenews.net/>

climatewire/2018/12/05/stories/1060108749 (observing that city officials are exploring ways to stabilize property taxes to help residents remain in their neighborhoods).

¹⁰ See *id.* (directing “the City Manager to instruct appropriate City of Miami staff to research gentrification in areas that exhibit low area mean income rates and high topographic elevations”).

¹¹ Kagubare, *supra* note 9.

¹² See Dana Drugmand, *Miami Aims to Protect Lower Income Residents from Climate Displacement*, CLIMATE LIABILITY NEWS (Dec. 6, 2018), <https://www.climate-liabilitynews.org/2018/12/06/miami-climate-gentrification/> (citing Michael Burger, executive director of the Sabin Center for Climate Change Law at Columbia University, and other experts as commending the initiative).

¹³ See Martin E. Gold & Lynne B. Sagalyn, *The Use and Abuse of Blight in Eminent Domain*, 38 FORDHAM URB. L.J. 1119, 1173 (2011) (explaining that the federal government has historically relied on the term “blighted” to justify excessively exercising its power of eminent domain on impoverished neighborhoods).

¹⁴ See Harris, *supra* note 6 (detailing the passage of this legislation, and efforts by climate gentrification activists to have the same allowance applied to other Miami neighborhoods).

¹⁵ See Harris, *supra* note 6 (observing that greater urban density could help mitigate gentrification, especially as the city loses land permanently to rising sea levels).

¹⁶ See Harris, *supra* note 6 (noting that, under such a freeze, property taxes would still add up, and would be owed by the homeowner as a lump sum if he or she sold the property).

¹⁷ Timothy Williams, *Cities Mobilize to Help Those Threatened by Gentrification*, N.Y. TIMES (Mar. 3, 2014), <https://www.nytimes.com/2014/03/04/us/cities-helping-residents-resist-the-new-gentry.html>.

¹⁸ Richard Florida, *Gentrification Has Virtually No Effect on Homeowners*, CITYLAB (Jan. 24, 2017), <https://www.citylab.com/equity/2017/01/gentrification-hurts-renters-more-than-homeowners/510074/> (stating that renters face a 2.6 percent greater probability of being displaced in a gentrifying neighborhood, as opposed to a 1.3 percent probability overall).

¹⁹ Harris, *supra* note 6.

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